



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223 and 224

RIN 0648-XC751

Endangered and Threatened Species; Identification of 14 Distinct Population

Segments of the Humpback Whale (*Megaptera novaeangliae*) and Proposed Revision of Species-Wide Listing

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; notice of availability of monitoring plan and opening of comment period.

SUMMARY: We, NMFS, in collaboration with Federal and state partners, have drafted a monitoring plan (MP) for the distinct population segments (DPSs) of humpback whale (*Megaptera novaeangliae*) that we did not propose to list as threatened or endangered under the Endangered Species Act of 1973, as amended (ESA), in our proposed revision of the species-wide listing. This document announces the availability of the draft MP and opens a 30-day public comment period on it.

DATES: Comments must be received by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Send comments to Marta Nammack, National ESA Listing Coordinator, NMFS Headquarters. You may submit comments, identified by FDMS Docket Number NOAA-NMFS-2015-0035 by any of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Hand-delivery: National ESA Listing Coordinator, Protected Resources Office, NMFS, 1315 East-West Highway, Room 13536, Silver Spring, MD 20910.
- Mail: NMFS, 1315 East-West Highway, Room 13536, Silver Spring, MD 20910.

All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

The draft MP, along with the proposed revision of the humpback whale species-wide listing (80 FR 22304; April 21, 2015) and the Biological Review Team's Status Review Report (Bettridge *et al.*, 2015) upon which the proposed revision relies upon can be found on the NMFS Web site at: <http://nmfs.noaa.gov/pr/>.

FOR FURTHER INFORMATION CONTACT: Marta Nammack, Office of Protected Resources, Silver Spring, MD (301) 427-8469.

SUPPLEMENTARY INFORMATION:

Background

On April 21, 2015, we published a proposal to divide the globally listed endangered humpback whale into 14 DPSs, remove the current species-level listing, and in its place list 2 DPSs as endangered and 2 DPSs as threatened. The remaining 10 DPSs were not proposed for listing because we determined that they are not threatened or endangered under the ESA.

Section 4(g)(1) of the ESA requires that NMFS: “...implement a system in cooperation with the States to monitor effectively for not less than five years the status of all species which have recovered to the point at which the measures provided pursuant to this Act [the ESA] are no longer necessary and which, in accordance with the provisions of this section, have been removed from either of the lists published under subsection (c).” General guidance for monitoring plan development is provided by recommendations jointly developed by the U.S. Fish and Wildlife Service and NMFS (USFWS and NMFS 2008). This guidance, called the “Post-Delisting Monitoring Plan Guidance,” clarified that: “The primary goal of PDM is to monitor the species to ensure the status does not deteriorate, and if a substantial decline in the species...or an increase in threats is detected, to take measures to halt the decline so that re-proposing it as a threatened or endangered species is not needed.” Although our determination that certain DPSs of humpback whale no longer qualify for listing is not technically a “delisting,” for the reasons explained in the proposed listing rule, we find that it is appropriate to monitor the status of the populations that will no longer be listed if the proposed rule is finalized. This is consistent with the intent of section 4(g)(1) of the Act. 16 U.S.C. 1533(g)(1). The Post-Delisting Monitoring Plan guidance thus guides us in our development of a monitoring plan for those humpback whale DPSs.

Pursuant to ESA section 4(g)(1), we have drafted a MP for the humpback whale DPSs that we did not propose to list as threatened or endangered.

Public Comments Solicited

We are notifying the public of the availability of a draft MP and providing the public an opportunity to submit comments on the draft MP for 30 days. The comment period shall be limited to 30 days because the statutory deadline for our final listing determination on the proposed rule is April 21, 2016, and we must finalize the MP by this date, too. We will consider all comments we receive during the comment period and incorporate suggestions, as appropriate, before finalizing the MP. Please submit any comments to the **ADDRESSES** listed above.

Authority: 16 U.S.C. 1531 *et seq.*

Dated: March 14, 2016.

Donna S. Wieting,

Director, Office of Protected Resources,

National Marine Fisheries Service.

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